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11 *dba* Bandago

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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 **DIGBY ADLER GROUP LLC *DBA*
17 BANDAGO,**

18 Plaintiff,

19 **vs.**

20 **IMAGE RENT A CAR, INC., *et al.***

21 Defendants.

22 Case No. 3:10-cv-00617-SC

23 **PLAINTIFF DIGBY ADLER GROUP**
24 **LLC'S NOTICE OF DEFENDANTS**
25 **IMAGE RENT A CAR, INC. AND VAN**
26 **RENTAL CO.'S FILINGS OF**
27 **BANKRUPTCY PETITIONS**

1 TO THE COURT, THE PARTIES, AND ALL COUNSEL OF RECORD:

2 Plaintiff Digby Adler Group LLC d/b/a Bandago hereby provides notice that
 3 Defendants Image Rent A Car, Inc. ("Image") and Van Rental Co. ("Van") have each filed
 4 petitions for bankruptcy protection in the United States Bankruptcy Court for the Eastern
 5 District of New York:

6 • *In Re Image Rent A Car, Inc.*, No. 1:11-bk-42390 (E.D.N.Y. filed March 24, 2011);
 7 • *In Re Van Rental Co.*, 1:11-bk-42391 (E.D.N.Y. filed March 24, 2011).

8 While under 11 U.S.C. §362 Image and Van's filings operate as an automatic stay
 9 of this action as to Image and Van, the stay does not apply to co-Defendants Shneior
 10 Zilberman ("Zilberman") and Gad Sebag ("Sebag"). Absent exceptional circumstances,
 11 the automatic stay of §362 does not apply to third-party defendants or co-defendants. *In*
 12 *re Metro. Mortg. & Sec. Co., Inc.*, 325 B.R. 851, 856 (Bankr. E.D. Wash. 2005); *In re*
 13 *Related Asbestos Cases*, 23 B.R. 523, *passim* (N.D. Cal. 1982); *Willett v. Vitek, Inc.*, 139
 14 B.R. 723, 726 (D. Nev. 1992); *Fed. Land Bank of Spokane v. Stiles*, 700 F. Supp. 1060,
 15 1062-63 (D. Mont. 1988). Moreover, to the extent Zilberman and Sebag wish to argue
 16 that exceptional circumstances warrant extending the stay to cover them, they must file
 17 an adversary proceeding to achieve the result under 11 U.S.C. §§105 and 362. See *In*
 18 *re All Seasons Resorts, Inc.*, 79 B.R. 901, 903 (Bankr. C.D. Cal. 1987).

19 Thus, unless instructed otherwise by the Court, Plaintiff will stay its prosecution of
 20 this action against Image and Van, and will treat its claims against Zilberman and Sebag
 21 as severed and proceed accordingly.

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 23 Respectfully submitted,

24 DATED: April 7, 2011

KRONENBERGER BURGOYNE, LLP

25 By:



26 Jeffrey M. Rosenfeld

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 28 Attorneys for Plaintiff Digby Adler Group LLC
 dba Bandago